

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FILED
U.S. DISTRICT COURT
WAYCROSS DIV.

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AYANE SMITH for
RHOBI JENKINS,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

CIVIL ACTION NO.: CV506-039


ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In her Objections, Plaintiff contends that the Administrative Law Judge ("ALJ") erred in determining that her child fails to functionally equal a listing because he has a "less than marked" limitation in the domain of health and physical well-being. Plaintiff points to the "time line" of the child's treatment, asserting that it documents an "extreme" limitation in the domain of health and physical well-being.

The ALJ's determination of a "less than marked" limitation in the domain of health and physical well-being is supported by substantial evidence. The Plaintiff has supplied no evidence of a "marked" limitation in this domain, let alone an "extreme" limitation. The ALJ found, based on substantial evidence, that Plaintiff's asthma attacks and illnesses were not "frequent" enough as defined by the regulations to be classified as "marked" in the domain of health and physical well-being.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. The decision of the Commissioner is **AFFIRMED**. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 25th day of July, 2007.


WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA